

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA**

**THE ANDERSONS, INC.,**  
an Ohio corporation,

Plaintiff,

v.

**ENVIRO GRANULATION, LLC,**  
a South Carolina Limited Liability Company;

**PLANT SCIENCE, INC.,**  
a Canada corporation; and

**HARRELL'S, LLC,**  
a Florida limited liability company;

Defendants.

Case No.

**JURY TRIAL DEMANDED  
INJUNCTIVE RELIEF SOUGHT**

**COMPLAINT FOR PATENT INFRINGEMENT**

NOW COMES Plaintiff, The Andersons, Inc. ("The Andersons"), by and through its attorneys, for its Complaint against Defendants, Enviro Granulation, LLC ("Enviro Granulation"), Plant Science, Inc. ("Plant Science"), and, Harrell's, LLC ("Harrell's") (collectively, "Defendants") as follows:

**THE PARTIES AND BACKGROUND**

1. Plaintiff The Andersons, Inc. is a corporation organized under the laws of the State of Ohio, with its principal place of business at 480 West Dussel Drive, Maumee, Ohio 43537.

{27526165;1}

2. The Andersons sells fertilizer products including products under the CONTEC DG<sup>®</sup> trademark.

3. On April 26, 2005 U.S. Patent No. 6,884,756 (the '756 patent) entitled Water-Dispersible Pellets was duly and legally issued by the United States Patent Office. The Andersons owns the '756 patent by assignment. A true and correct copy of the '756 patent is attached as Exhibit A.

4. On May 7, 2013 U.S. Patent No. 8,435,321 (the '321 patent) entitled Water-Dispersible Pellets was duly and legally issued by the United States Patent Office. The Andersons owns the '321 patent by assignment. A true and correct copy of the '321 patent is attached as Exhibit B.

5. On November 5, 2013 U.S. Patent No. 8,574,631 (the '631 patent) entitled Water-Dispersible Pellets Containing a Isobutylene Diurea and a Lignan Binder was duly and legally issued by the United States Patent Office. The Andersons owns the '631 patent by assignment. A true and correct copy of the '631 patent is attached as Exhibit C.

6. Defendant Enviro Granulation, LLC is a limited liability company organized under the laws of the state of South Carolina with a principal place of business at 1902 Hwy. 178 N. Honea Path, South Carolina 29654.

7. Defendant Enviro Granulation manufactures a water dispersible pellet fertilizer and sells the same to Defendant Plant Science, Inc.

8. Defendant Plant Science, Inc. is a corporation organized under the laws of Canada with a principal place of business at 2934 Vandorf Sideroad, Gormley, Ontario, Canada L0H 1G0.

9. Plant Science Inc. distributes and sells the water dispersible pellet fertilizer with in the State of Florida, including but not limited to sales where the water dispersible pellet fertilizer is sold under the name Tru-Prill.

10. Defendant Plant Science sells the water dispersible pellet fertilizer, including but not limited to the Tru-Prill products to Harrell's, LLC for distribution and resale.

11. Defendant Harrell's, LLC is a limited liability company organized under the laws of the state of Florida with a principal place of business at 720 Kraft Road, Lakeland, Florida 33815.

12. Defendant Harrell's sells and distributes water dispersible pellet fertilizers under the name Tru-Prill.

#### **JURISDICTION AND VENUE**

13. This is an action for patent infringement arising under the patent laws of the United States of America, Title 35 of the United States Code. This Court has subject matter jurisdiction over the matters pled herein under 28 U.S.C. §§ 1331 and 1338(a) in that this is a civil action arising out of the patent laws of the United States of America.

14. Defendant Harrell's principal place of business is within this judicial district.

15. Defendants regularly and deliberately engaged in and continue to engage in activities that result in using, selling, offering for sale, and/or importing infringing products in and/or into the State of Florida and this judicial district. These activities violate the patent rights held by The Andersons, Inc. as pled herein. This Court has personal jurisdiction over the Defendants because, among other things, Defendants conduct business in the State of

Florida and in this judicial district and thus enjoy the privileges and protections of Florida law.

16. Venue is proper in the Middle District of Florida pursuant to 28 U.S.C. §§ 1391(b), (c) and (d) and 1400(b).

### **COUNT I - PATENT INFRINGEMENT**

17. The Andersons repeats and incorporates by reference all of the allegations from paragraphs 1 through 16, above, as if fully set forth herein.

18. Based upon the acts complained of herein, Defendant Enviro Granulation has directly infringed the '756, '321, and '631 patents by making, selling and offering to sell water dispersible pellet fertilizer products including products branded under the name Tru-Prill in violation of 35 U.S.C. § 271(a).

19. Based upon the acts complained of herein, Defendant Plant Science has directly infringed the '756, '321, and '631 patents by selling and offering to sell water dispersible pellet fertilizer products including products branded under the name Tru-Prill to at least Defendant Harrell's in violation of 35 U.S.C. § 271(a).

20. Based upon the acts complained of herein, Defendant Harrell's has directly infringed the '756, '321, and '631 patents by selling and offering to sell water dispersible pellet fertilizer products including products branded under the name Tru-Prill in violation of 35 U.S.C. § 271(a).

21. As a result of Defendants' acts, The Andersons is entitled to at least a reasonable royalty under 35 U.S.C. § 284, adequate to compensate for the infringing products already installed.

22. As a result of Defendants' infringement, The Andersons is entitled to temporary and permanent injunctive relief under 35 U.S.C. § 283, to ensure that Defendants cease offering to sell, selling, and making infringing products.

23. Upon information and belief, Defendants Enviro Granulation and Plant Science have actual knowledge of the '756, '321, and '631 patents, and have elected to disregard The Andersons' patent rights by making and selling infringing products, such infringement being willful, entitling The Andersons to recover treble damages and attorneys' fees pursuant to 35 U.S.C. §§ 284 and 285.

#### **RELIEF REQUESTED**

WHEREFORE Plaintiff The Andersons, Inc. requests a judgment in its favor and against Defendants Enviro Granulation, Plant Science, and Harrell's, and requests that this Court:

A. Order, adjudge and decree that Defendants Enviro Granulation, Plant Science, and Harrell's have infringed the '756, '321, and '631 patents;

B. Issue a preliminary and permanent injunction prohibiting Defendants and all of their representatives, agents, servants, employees, related companies, successors and assigns, and all others in privity or acting in concert with them, from infringing any claim of any of the '756, '321, and '631 patents including, but not limited to, further infringements by offering to sell, selling, making or, and/or directing the manufacture of any water dispersible pellets that infringes any claim of the '756, '321, and '631 patents;

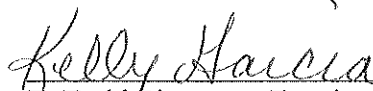
- C. Award damages for infringement of the '756, '321, and '631 patents;
- D. Declare this case as exceptional within the meaning of 35 U.S.C. § 285 and award Plaintiff its attorneys' fees, costs, and expenses that it incurs in prosecuting this action; and
- E. Provide any further relief as this Court may deem equitable and proper.

**JURY DEMAND**

Plaintiff demands a trial by jury of all issues triable to a jury.

Dated: November 27, 2013.

Respectfully submitted,



T. Todd Pittenger, Esquire

Florida Bar No: 0768936

Kelly J. H. Garcia, Esquire

Florida Bar No.: 0694851

**AKERMAN LLP**

420 South Orange Avenue, Suite 1200

P.O. Box 231

Orlando, FL 32802-0231

Telephone: 407-423-4000

Fax: 407-843-6210

Email: [todd.pittenger@akerman.com](mailto:todd.pittenger@akerman.com)

Email: [kelly.garcia@akerman.com](mailto:kelly.garcia@akerman.com)

Margaret D. Mathews, Esq.

Florida Bar Number: 348430

**AKERMAN LLP**

401 East Jackson Street

Suite 1700

Tampa, FL 33602

Phone: (813) 223-7333

Fax: (813) 223-2837

Email: [margaret.mathews@akerman.com](mailto:margaret.mathews@akerman.com)

Thomas E. Bejin (P56854)  
*pro hac vice application forthcoming*  
**BEJIN, VANOPHEM & BIENEMAN PLC**  
300 River Place, Suite 1650  
Detroit, MI 48207  
Ph: (313) 528-4882  
Fax: (313) 528-6923  
Email: [bejin@bvbip.com](mailto:bejin@bvbip.com)

*Attorneys for Plaintiff The Andersons, Inc.*